

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

|   |   |                              |
|---|---|------------------------------|
| ALFRED CUELLAR  | § |                              |
| VS.   | § | CIVIL ACTION NO. 9:17-CV-100 |
| DIRECTOR, TDCJ-CID,<br>BRAD LIVINGSTON, <i>et al.</i> , | § |                              |

MEMORANDUM ORDER OVERRULING OBJECTIONS AND  
ADOPTING THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Plaintiff, Alfred Cuellar, an inmate confined at the Eastham Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against several defendants.

The Court referred this matter to the Honorable Zack Hawthorn United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends plaintiff’s application to proceed *in forma pauperis* be denied.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, and pleadings. Plaintiff filed objections to the Report and Recommendation of United States Magistrate Judge. This requires a *de novo* review of the objections in relation to the pleadings and applicable law. *See* FED. R. CIV. P. 72(b).

Plaintiff argues he should not have to pay the full \$400.00 filing fee in one payment. He requests that he be allowed to be an initial partial filing fee of \$80.00 and then pay the rest of the filing fee in partial payments. Plaintiff, however, has a current balance of \$4,413.75 and a six month average balance of \$5,782.99. Plaintiff has sufficient funds to pay the full \$400.00 filing fee.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. Plaintiff has thirty (30) days from entry below to pay the full \$400.00 filing fee. Failure to comply will result in dismissal of this case for want of prosecution pursuant to Federal Rule of Civil Procedure 41(b).

So **ORDERED** and **SIGNED** this **23** day of **June, 2017**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge